

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARCO MARROQUIN,

Petitioner,

vs.

BEN CURRY,

Respondent.

No. C 07-6098 PJH (PR)

ORDER TO SHOW CAUSE

This is a habeas case filed pro se by a state prisoner. Respondent's motion to dismiss as mixed was granted, the court holding that only one of the six issues was exhausted. Petitioner was instructed to choose among three options for the five unexhausted issues. He has chosen to file an amended petition without the unexhausted issues. The remaining issue, then, is whether the denial of parole was supported by "some evidence." This claim is sufficient to require a response.

CONCLUSION

1. The clerk shall serve by regular mail a copy of this order and the amended petition and all attachments thereto on respondent and respondent's attorney, the Attorney General of the State of California. The clerk also shall serve a copy of this order on petitioner.

2. Respondent shall file with the court and serve on petitioner, within sixty days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant

1 to a determination of the issues presented by the petition.

2 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with
3 the court and serving it on respondent within thirty days of his receipt of the answer.

4 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an
5 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
6 Section 2254 Cases. If respondent files such a motion, petitioner shall file with the court
7 and serve on respondent an opposition or statement of non-opposition within thirty days of
8 receipt of the motion, and respondent shall file with the court and serve on petitioner a reply
9 within fifteen days of receipt of any opposition.

10 4. Petitioner is reminded that all communications with the court must be served on
11 respondent by mailing a true copy of the document to respondent's counsel. Petitioner
12 must keep the court informed of any change of address and must comply with the court's
13 orders in a timely fashion. Failure to do so may result in the dismissal of this action for
14 failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). See *Martinez v.*
15 *Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

16 **IT IS SO ORDERED.**

17 Dated: June 25, 2008.



PHYLLIS J. HAMILTON
United States District Judge